GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal petition filed by Sri K.B.L.Prasad S/o Krishna Murthy R/o 6-17-23, 17th line Arundalpet, Guntur District, against the proceedings Rc.No.3486/93/TRI-VC-2, dated:17.07.1996 of the Director of Tribal Welfare, Hyderabad - under section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No. 16/1993) – Appeal Petition dismissed – Orders - Issued.

TRIBAL WELFARE (CV2) DEPARTMENT

G.O.Ms.No.87 **Dated:14.07.2016**

Read the following:

1. Proceedings of the Director, Tribal Welfare, Hyd., Rc.No. 3486/93/TRI-VC-2, dated:17.07.1996.
2. Order of the Hon'ble High Court of A.P., Hyderabad in WP No.10579/1997, dated 30.12.1997.
3. Appeal Petition filed by Sri K.B.L.Prasad S/o Krishna Murthy R/o 6-17-23, 17th line Arundalpet, Guntur Dist., dt.28.08.1998.
4. Govt. Memo No.13037/CV.2/98, dated: 22.04.1999.
5. From the Deputy Director, SW., Anantapur District, Lr. Rc. No. A1/137/2001, dated04.05.2002.
6. From the Director, Tribal Welfare, Hyderabad, Lr.Rc.No. 3486/93/TRI/VC-2, dated:21.06.2007.
7. Govt. Memo. No.13037/CV.2/98, dt.16.07.2007, 01.08.2007.
8. Govt. Letter No.13037/CV.2/98, dated: 15.08.2008.
9. Govt. Memo No.13037/CV.2/98, dated:01.05.2012 & 27.05.2015
10. Govt. Memo. No.13037/CV.2/98, dt.16.10.2015.

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ORDER:

In the reference 1st read above the Director of Tribal Welfare, Hyderabad has issued orders canceling ST- Kammara Caste Certificate obtained from the then Tahsildar, Kallur, Kurnool District in 1993 by Sri K.B.L.Prasad S/o Krishna Murthy.

2. In the reference 2nd read above, Sri K.B.L.Prasad S/o Krishna Murthy has filed W.P. No. 10579/1997 before the Hon'ble High Court, against the proceedings of the Director of Tribal Welfare, Hyderabad, dated 17.07.1996. In the reference 2nd read above, the Hon'ble High Court of Andhra Pradesh, while disposing the said WP on 30.12.1997 has directed to the petitioner shall approach the Government by filing an appeal under the provisions of Act 16 of 1993 within a period of four weeks from the date of receipt of the order and the same shall be considered and disposed by the Government within a period of six weeks thereafter.

3. In the reference 3rd read above, Sri K.B.L.Prasad S/o Krishna Murthy has filed an Appeal Petition before the Government, against the Proceedings of the Director of Tribal Welfare, Hyderabad. After examining the said Appeal Petition, Government have admitted the Appeal Petition & granted stay on the said proceedings of Director of Tribal Welfare, Hyderabad and called for the parawise remarks and connected records from the District Collector, Anantapur/ Director of Tribal Welfare, Hyderabad in the reference 3rd read above.

4. In the reference 6th read above, the Director of Tribal Welfare, Hyderabad have furnished connected records and the parawise remarks on the Appeal Petition filed by Sri K.B.L.Prasad S/o Krishna Murthy.

[P.T.O]

5. The said Appeal Petition has been posted for hearing on 23.07.2007, 16.08.2007, 23.08.2008, 11.05.2012, 20.06.2015 and finally on 31.10.2015 and the same has been informed to the Appellant and the Counsel for the Appellant and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the Community claim, failing which, it will be construed that there is no claim what-so-ever in the matter and it will be decided based on the material available with the Government in the references 7th to 10th read above. The Appellant & Counsel for the Appellant have not attended the said hearing as requested in the reference 10th read above. But due to several administrative difficulties the matter could not be disposed as directed by the Hon'ble High Court in WP No. 10579/1997, dated 30.12.1997 before the said date however, after giving notices from time to time to the Appellant through his Counsel the matter has been examined by the Appellate Authority.

6. After examination of the records/ the copies of evidences/academic record/ grounds filed by the Appellant/ the parawise remarks submitted by Director of Tribal Welfare, Hyderabad and proceedings of the Director of Tribal Welfare, Hyderabad dated 17.07.1996 and after hearing of the arguments on the community claim of Sri K.B.L.Prasad S/o Krishna Murthy, it has been observed by the Appellate Authority that:

I. The Appellant states that his father and his relatives are having the ST-Kammara caste certificate which were issued by competent authorities after due enquiry. But no record to that effect is produced.

II. The proceedings of Commissioner of Tribal Welfare, Hyderabad is based on the report of enquiry officer which is made behind the back of the appellant and the enquiry was not conducted in the presence of the appellant and no opportunity was given to adduce oral and documentary evidence.

III. The Director of Tribal welfare, AP, Hyderabad has observed that the appellant's family belong to Kammari caste as evident from the Admission Register of Muncipal Model Primary School, Old Guntakal. Further it is observed that the appellant's family worships Lord Shiva and they are Shivetis. They are vegetarians and wear sacred thread and also his family belongs to 'Suparanasa' gotra(clan).

IV. Further it is observed that the basis for issuance of the caste certificate by the Mandal Revenue Officer, Kalluur was merely the caste entry made in the Transfer Certificate of Appellant, the T.C. is prepared purely based on the declaration given by the parents of the Appellant at the time of admission into School and the said declaration is a false, which was continued by the school and it can't be determinant of real caste of the Appellant. Further the Mandal Revenue Officer, Kalluur has no jurisdiction over the native place of the appellant which is situated in Anathapur District. Therefore the said certificate is voilative of guidelines given in G.O.Ms. No. 147, S.W(E) Department, dated 21.04.1977. Further it is voilative of the instructions given by the G.O.Ms. No. 245, S.W(E) Department, dated 30.06.1977.

V. As per Section 5(1) of Act 16 of 1993, the District Collector is Competent Authority to cancellation of caste certificate, who obtained a false BC/SC/ST community certificates, based on the Sue- Moto or complaint given by any person. Therefore, in the instant case, the Director of Tribal welfare, Hyderabad has no power to cancellation of caste certificate of the applicant. However, the Director of Tribal welfare, Hyderabad has issued proceedings for cancellation of the appellant's caste certificate. Further the appellant has field appeal before the Government as per the Section 7(2) of Act 16 of 1993.

[Contd…..]

7. In principle the Government is receiving any documents even at the time of argument and considering the same in order to ensure that justice is done to the parties more so, to those who complain that reasonable opportunity is not given to them by the Primary Authority. But no documents are placed before Government even several opportunities were given to file any material to substantiate the fact that he belongs to ST-Kammara community. Further in the instant case, the appellant does not produce any material except the school record which is generated based on the declaration given by the parents at the time of admission into School. Further, the whole evidence of Appellant is self defeating. The burden, on the Appellant U/S 6 is not discharged. Hence Government have examined the entire record & material relevant to the instant case and it is decided that the Appellant obtained caste certificate fraudulently and he has no iota of evidence to show that his ancestors were migrants from the schedule areas of Srikakulam, Visakhapatnam, East & West Godavari Districts. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity found in the order of the Director of Tribal Welfare, Hyderabad.

8. The Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the Appeal Petition filed by Sri K.B.L.Prasad S/o Krishna Murthy does not deserve any interference. Hence, Proceedings of the Director of Tribal Welfare, Hyderabad issued vide proceedings Rc. No. 3486/93/TRI-VC-2, dated:17.07.1996, is hereby upheld and the Appeal Petition filed by Sri K.B.L.Prasad S/o Krishna Murthy, is hereby dismissed and the Certificate issued by the then Tahsildar, Kalluru deemed to be cancelled.

9. Consequently, the Director of Tribal Welfare, A.P., Vijayawada shall take necessary action in the matter.

10. The records (containing Rc.No.3486/93/TRI-VC-2, dated:17.07.1996 pages 01 to 71) received from Director of Tribal Welfare, Hyderabad through 6th read above, are returned herewith in original to the Director of Tribal Welfare, A.P., Vijayawada and she is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R.P.SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Director of Tribal Welfare,
V-Plaza, Maruthi Nagar, Chittugunta Junction,
Near BSNL Office, Eluru Road, Vijayawada-520004.
(with original records) (BY RPAD)

The District Collector, Ananthpur.

Sri K.B.L.Prasad S/o Krishna Murthy,
R/o 6-17-23, 17th line Arundalpet, Guntur, Guntur District.

Sri K.G.Krishna Murthy, Advocate, Off: 16-2-147/55/C,
Anand Nagar, New Malakpet, Hyderabad-36.

Copy to:
The Director, TCR & TI,
V-Plaza, Maruthi Nagar, Chittugunta Junction,
Near BSNL Office, Eluru Road, Vijayawada-520004.

The PS to M(SWE& TWE).
The PS to Prl. Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER